

REMARKS/ARGUMENTS

Applicant responds herein to the Office Action dated May 26, 2009.

Claims 55-68 were pending in the application and were rejected on various grounds. Of those claims, the applicant has retained only claim 64, and has otherwise canceled the other claims without prejudice. As to claim 64, the same stands rejected on grounds of obviousness over Servan-Schreiber (6,892,354), in view of Official Notice, and further in view of Gephardt (5,734,843). Reconsideration is requested in view of the following remarks.

The subject matter of claim 64 is based on the sixth embodiment of the specification. Thus, as presently worded, claim 64 recites: “the user side equipment calculates a time necessary for presenting the advertisement up to the end based on a size of advertisement data...” (emphasis added). This text added by amendment is supported at page 25 of the specification, which states: “obtains the file size of the advertisement file (step 83)” (lines 2-5 of page 25) and “from the file size of the advertisement file, the time required for this advertisement file to be reproduced up to the end is calculated...” (lines 6-8, page 25).

In the Office Action, it is asserted that Gephardt teaches the advertisement presentation system of claim 64. Applicant respectfully disagrees.

Firstly, neither Servan-Schreiber nor Gephardt suggests or mentions the feature of claim 64 which speaks to the ability to adjust the receiving time of the target data while receiving the target data when showing the advertisement data. Moreover, Gephardt relates to a technique of transferring data between devices that are mutually connected via a bus line. Therefore, the invention of claim 64 which relates to the technical field of “an advertisement presentation for advertising to users who use a network (for example, the Internet)” does not relate to and is not in the same or similar technical field as Gephardt. Therefore, in the first instance, even if a person skilled in the art would combine the two references, they would not arrive at the invention and, secondly, it would not be obvious to make the combination of these references, given that Gephardt addresses and concerns a different field.

Further, in the rejection, the Examiner states that “the user side equipment is effective to calculate a time necessary (i.e., it is inherent that time is being calculated in Gephardt) for presenting the advertisement up to the end...”. The applicant respectfully disagrees with the

deduction that the Examiner is making. In Gephardt, the bandwidth is adjusted based on the size of a frame, as described at col. 5, lines 9-38 thereof. There is nothing in Gephardt which would allow one of ordinary skill in the art to conclude that it is “inherent” that time is being calculated in Gephardt.


Thirdly, in claim 64, “the user side equipment...adjusts a data transfer speed applied to download the target data in order to finish the downloading operation in the calculated time”. Further, “the calculated time” is “necessary for presenting the advertisement up to the end.” In other words, the system of claim 64 synchronizes the data transfer speed of the target data to the time for presenting the advertisement up to the end. As such, claim 64 has the technical feature of synchronizing the data transfer speed to the time necessary for processing data (showing the advertisement). Neither Gephardt nor Servan-Schreiber suggests or mentions the idea of obtaining such a functionality, and neither teaches the system and/or hardware configuration for doing so. For these reasons, it is respectfully submitted that claim 64 distinguishes over the prior art of record.

The newly presented claims 69-72 are all dependent on claim 64 (directly or indirectly), and as such, merit to be allowed. However, the reasons for allowing them is even more pronounced, given that they include their own limitations which distance them even further from the prior art.

Accordingly, the Examiner is respectfully requested to reconsider the application, allow the claims as amended and pass this case to issue.

Respectfully submitted,

THIS CORRESPONDENCE IS BEING
SUBMITTED ELECTRONICALLY
THROUGH THE UNITED STATES
PATENT AND TRADEMARK OFFICE
EFS FILING SYSTEM
ON AUGUST 26, 2009


MAX MOSKOWITZ
Registration No.: 30,576
OSTROLENK FABER LLP
1180 Avenue of the Americas
New York, New York 10036-8403
Telephone: (212) 382-0700